

App. No. 09/736,988  
Response Dated: June 26, 2006  
Reply to Office Action of April 26, 2006

### REMARKS/ARGUMENTS

The Office Action mailed April 26, 2006 has been received and the Examiner's comments carefully reviewed. The Office Action rejected claims 1-20. Claims 1-15 and 17-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Klassen et al (U.S. Patent No. 6,711,137) (hereinafter Klassen) in view of Dillon et al (U.S. Patent No. 6,473,793) (hereinafter Dillon). Claims 16 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Klassen in view of Dillon as applied to claims 1 and 11, and further in view of Toporek et al (U.S. Patent No. 6,654,344) (hereinafter Toporek). Independent Claims 1, 7 and 11 have been amended. No new matter has been added. For at least the following reasons, Applicants respectfully submit that the presently pending claims are in condition for allowance.

#### Claim Rejections

With regard to Claim 1 the Office Action states that Klassen teaches the all of the recitations of Claim 1 with the exception that Klassen does not "explicitly teach that automatically tuning the size of the TCP receive window comprises setting the size of the current TCP receive window without manual intervention." The Office Action argues, however, that Dillon "explicitly teach that a hybrid gateway receives the TCP packet and the advertised window size of the TCP packet is modified, if necessary, to throttle the user's bandwidth (figures 1 and 14; column 9 lines 39-67; column 16 lines 8-36; column 22 lines 1-3) which implies that adjusting the size of the TCP receive window on a computing device based on the determined bandwidth." The Applicants respectfully disagree that the combination of the cited references teach or suggest the recitations within the Applicants' claims.

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In summary, Klassen is directed at evaluating a communication network (see column 4, lines 6-16 and column 19, lines 11-48) and providing "comprehensive "what-if" network planning facilities" (See Abstract). While Klassen does discuss window sizes and providing formulas for window size determination it does not teach "automatically tuning the size of the TCP receive window based on the determined bandwidth" as recited in Claim 1. Klassen is merely providing recommendations and it is up to someone else to determine whether or not to actually adjust the window size.

Dillon, on the other hand, is directed at dynamically allocating and enforcing bandwidth on a network at a hybrid gateway that is located between a source computer and requesting terminals (See column 2, lines 5-17). To adjust the throughput, Dillon adjusts a parameter that is contained within each of the TCP packets that have already been sent by the source computer (See column 9, lines 39-67). Adjusting a parameter in the TCP packet is NOT the same or analogous to adjusting the TCP receive window at the receiving computer. The adjustment of a parameter in a TCP packet requires accessing each packet and making the adjustment for each packet sent to the receiving device. An adjustment of a TCP receive window, on the other hand, does not involve adjusting a parameter within each sent packet. These are two different and distinct adjustments.

While the Applicants believe that the Claims as presented are allowable over the cited references, the Applicants have amended the independent Claims to more clearly define the invention. As amended, Claim 1 recites in part "automatically tuning the size of the TCP receive window on the receiving computing device based on the determined bandwidth; wherein the

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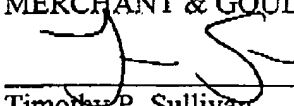
automatically tuning comprises setting the size of the current TCP receive window without manual intervention and without adjusting a packet header of a packet that has been sent by a sending computing device" (amendments underlined). This amendment clearly distinguishes that the TCP receive window is adjusted on the receiving computer and that a parameter in a packet header that has been sent by a sending computing device is not adjusted to achieve the tuning. As such, it is submitted that Claim 1 is allowable for at least the above reasons. It is also submitted that independent Claims 7 and 11, as amended, are allowable for at least the same reasons.

#### Conclusion

In view of the foregoing remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

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